

carriers from eligibility under Track A even after it deleted the requirement of “comparable” service, moreover, Congress ensured that prior to Bell company interLATA entry there would be some additional local competition beyond the cellular competition that was well established in all 50 states prior to the 1996 Act.<sup>21</sup> Otherwise, Track A would have been available to every BOC in every state immediately upon enactment.

Congress’s decision that the “price, features, and scope” of a competitor’s service need not be comparable to those of the BOC’s service makes sound policy sense. The purpose of section 271(c) — including both Track A and Track B as well as the checklist — was not to guarantee any particular type or extent of local competition, but rather to ensure that the BOC has taken the necessary steps to open the local exchange to all comers.<sup>22</sup> That is why Congress refused to tie BOC interLATA relief to some measure of actual local competition. See Michigan Order ¶¶ 76-77. Moreover, wireless and wireline networks use the same basic forms of interconnection with the incumbent LEC and generally obtain checklist items in the same fashion. Any agreement with a PCS provider under sections 251 and 252 would be available to other CLECs under the same terms and conditions, so there is no danger that a BOC could obtain interLATA relief by making preferential arrangements with a PCS provider. See 47 U.S.C. § 252(i).

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<sup>21</sup>. See generally Donaldson, Lufkin & Jenrette, The Wireless Communications Industry (Summer 1994).

<sup>22</sup>. See 141 Cong. Rec. S8188, S8195 (daily ed. June 12, 1995) (statement of Sen. Pressler) (noting adoption of checklist approach in place of “actual competition” test); 141 Cong. Rec. S8009 (daily ed. June 8, 1995) (statement of Sen. Hollings) (“checklist” is test of “what actual and demonstrable competition would encompass”).

3. *For Some Customers and Uses, PCS Service Is a Substitute for BellSouth's Wireline Service*

Even if the Commission wrongly read the term "competing provider" to require economic comparability of the sort originally proposed by the House Commerce Committee, PrimeCo, Sprint Spectrum, and MereTel would still be Track A "competing providers." Market surveys of PCS service in Louisiana indicate that about 17 percent of PrimeCo's and Sprint Spectrum's 8000-plus customers chose to subscribe to PCS service instead of subscribing to wireline service. See Denk Report at Tables 3-5 (App. D at Tab 5). Moreover, having signed up for PCS service, 29 percent of Louisiana PCS users report that they now use PCS as their primary home or business phone, id. Table 7; 56 percent say they sometimes use PCS to receive and place calls at home, id. Table 8; 47 percent use PCS as a second telephone at work, id. Table 9; and 80 percent report using their PCS phone rather than using the wireline service of a friend or business associate when they are away from home or work, id. Table 6. Each of these study results indicates that substitution between wireless and wireline calling is occurring.

The press similarly reports that GTE Wireless has "already detected [a] shift among students, who are signing up for cellular or PCS service rather than buying [a] separate phone line."<sup>23</sup> And according to market analysts Schroder Wertheim & Co. Inc., "Sprint Spectrum's

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<sup>23</sup>. Industry Sees Students and Retirees Dropping Wired Phone for Wireless, Communications Daily, September 15, 1997.

wireless objectives include not only penetration of the existing cellular market but also capturing significant wireline local telephony market share.”<sup>24</sup>

Pricing comparisons confirm that for low-volume residential customers in Louisiana a PCS subscription can be less expensive than taking the equivalent wireline intraLATA services from BellSouth. Banerjee Report (App. D at Tab 6). Dollar-for-dollar rate comparisons, moreover, do not account for the mobility and one-stop-shopping advantages of wireless, which may cause customers to substitute PCS for less expensive wireline service. *Id.* at 1, 7. Given the higher rates they pay for wireline service, business customers should be even more likely to find PCS attractive. *Id.* at 7.

**C. “Track A” Wireline Carriers Are Entering the Louisiana Market**

Relevant evidence regarding wireline entry into Louisiana’s local markets is not as readily obtainable by BellSouth as evidence regarding wireless entry. To ensure a full record, therefore, the Commission should direct all commenters on BellSouth’s application to give specific details regarding their own telephone exchange service operations, if any, in Louisiana, including descriptions of all services now being offered and furnished, all steps currently being taken to enter the market, and timetables for introducing new services.

That said, BellSouth has collected evidence establishing that several wireline CLECs in Louisiana are beginning to serve the most attractive customer groups in the State. The Affidavit of Gary Wright describes in detail the activities of CLECs with facilities in Louisiana.

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<sup>24</sup>. Schroder Wertheim & Co. Inc., Company Report — Cox Communications, Inc., dated July 9, 1996.

ACSI provides exchange access over its own networks in New Orleans, Baton Rouge, and Shreveport. See Wright Aff. ¶ 18 & Attach. WLCE-A (Confidential). ACSI began providing resold telephone exchange service to business customers in these three cities in April, 1997 and introduced facilities-based business service in New Orleans on July 30, 1997. Id. ACSI's tariff offers service to business and residential customers, although ACSI's rates are priced to compete with BellSouth's business rates and it is unclear whether any residential customer has taken ACSI up on its tariff offerings. Id. ¶ 20. One customer who requested ACSI residential service was told that "[w]e are not able to provide service to residential. It is an FCC issue." Lee Affidavit ¶ 3 (App. D at Tab 7). Nevertheless, ACSI has told this Commission that it "will provide facilities-based services to residential callers through MDUs [multiple dwelling units] and STS [shared tenant service] providers where it makes economic sense." ACSI Opposition, Application by BellSouth for Provision of In-Region InterLATA Services in South Carolina, CC Dkt. No. 97-208, at 14 (FCC Oct. 20, 1997). Indeed, ACSI reported that it already was providing "a wide variety of local exchange services" using switches in New Orleans and elsewhere in BellSouth's region. Id. at 14 & attached Falvey Aff. ¶ 10.

American MetroComm and KMC Telecom are competitive access providers that thus far have provided telephone exchange service only on a resale basis. American MetroComm has a fiber optic network and switch in New Orleans, and a fiber optic network in Baton Rouge. Wright Aff. ¶ 32 & Attach. WLCE-B (Confidential). KMC Telecom owns fiber optic networks in Baton Rouge and Shreveport and has installed local exchange switching facilities in both cities. See id. ¶ 38 & Attach. WLCE-C. Although both companies have thus far used their networks

only to provide exchange access, and have limited their local exchange service to resale, American MetroComm and KMC Telecom are expected to begin facilities-based service in Louisiana in mid-November. See Wright Aff. ¶¶ 33-40.

Like ACSI, American MetroComm, and KMC TeleCom, SHELL Offshore Service Company ("Shell") — a subsidiary of the oil company — has an approved interconnection agreement with BellSouth, is certified to provide local service in Louisiana, and has filed a local exchange service tariff with the Louisiana PSC. Id. ¶¶ 42-43. A detailed description of Shell's network and tariff offerings for residential and business customers is included in Attachment WLCE-D of the Wright Affidavit.

Cox Fibernet has announced that it will serve residential and business customers in New Orleans using its own wireline hybrid coax/fiber facilities — a network that passes 428,000 homes and currently serves about 275,00 cable television subscribers. Wright Aff. ¶¶ 51-52 & Attach. WLCE-E (confidential). Cox provides access service, long distance service (with its partner Frontier Corporation), Internet access, and private line services, and is currently installing an Ericsson AXE central office switch. Although Cox has not negotiated an interconnection agreement with BellSouth, Cox's parent company owns a 30% stake in TCG, which has executed an interconnection agreement with BellSouth. Id. ¶ 56. Cox is certified to provide local service in Louisiana. Id. ¶ 49.

Entergy Hyperion Telecommunications is certified to provide local service in Louisiana and has an approved local exchange service tariff. Id. ¶¶ 70-71. Entergy Hyperion's plan for

facilities-based entry is targeted to the business end-user and the company is in the process of finalizing an interconnection agreement with BellSouth. Id. ¶¶ 70, 74.

ITC DeltaCom provides exchange access over a series of fiber optic routes in Louisiana and throughout most of BellSouth's region. Id. ¶¶ 75-76. Although ITC DeltaCom launched both resold and facilities-based local service in Alabama in June 1997, and has received Louisiana PSC approval of its interconnection agreement, application for CLEC certification, and tariff, ITC DeltaCom has not yet announced local entry plans for Louisiana. Id. ¶¶ 81-82.

If the evidence confirms that one or more of these wireline carriers are in fact offering both residential and business facilities-based service in Louisiana, Track A would be satisfied without regard to the status of PCS providers, and it would be unnecessary for the Commission to address that issue of first impression. Likewise, if the evidence shows that a wireline CLEC has begun supplementing facilities-based service to business customers with resale of BellSouth's residential service in Louisiana (or vice versa), BellSouth would be eligible for interLATA relief under Track A.<sup>25</sup> Furthermore, Track A can be satisfied by a combination of CLECs, rather than the activities of just one CLEC alone. See Michigan Order ¶¶ 82-85.

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<sup>25</sup> The Department of Justice has explained that the Act "does not . . . require that each class of customers (i.e., business and residential) must be served over a facilities-based competitor's own facilities." Addendum to DOJ Oklahoma Evaluation at 3, CC Dkt. No. 97-121 (May 21, 1997). "[I]t does not matter whether the competitor reaches one class of customers — e.g., residential — only through resale, provided the competitor's local exchange services as a whole are provided 'predominantly' over its own facilities." Id.

**D. If No Wireline or Wireless CLEC Had Launched Track A Service, BellSouth Would Be Eligible for InterLATA Relief Under Track B**

Even if PCS providers did not qualify under Track A for some reason, and even if no wireline carrier had commenced facilities-based service that would bring it under Track A, BellSouth would still be eligible to apply for interLATA entry in Louisiana. While the Commission has read section 271(c)(1)(B) to condition Bell company interLATA entry on the absence of a request for negotiation to obtain access and interconnection "from a prospective competing provider of the type of telephone exchange service described in section 271(c)(1)(A)," Oklahoma Order ¶ 31 (emphasis added), this interpretation of Track B is contrary to the plain language of the statute and has been challenged before the U.S. Court of Appeals for the District of Columbia. SBC Communications, Inc. v. FCC, No. 97-1425 (D.C. Cir. to be argued Jan. 9, 1998). BellSouth believes that, after December 8, 1996, Track B is foreclosed only if the BOC has received a request from a qualifying "competing provide[r]" that actually meets the criteria of Track A as of "the date which is 3 months before the date the company makes its application." 47 U.S.C. § 271(c)(1)(B). Accordingly, if no CLEC in Louisiana qualifies under Track A, it necessarily follows that BellSouth had not received any qualifying request as of three months prior to this application and is eligible to file under Track B.

Depending upon the record facts gathered by the Commission in this proceeding, BellSouth might qualify as well under the Commission's interpretation of Track B, on the basis that no CLEC is taking "reasonable steps" toward providing Track A service in Louisiana. See Oklahoma Order ¶¶ 57-58. For example, a CLEC would not be taking reasonable steps to provide residential service on a facilities basis if it offers business services over its own network,

but refuses to serve residential customers over that operational network. Likewise, a carrier such as AT&T that has sought to enter the local market by demanding a pre-assembled "platform" of network elements to which it has no legal entitlement, is not taking reasonable steps toward providing Track A service in Louisiana.

## **II. BELLSOUTH PROVIDES INTERCONNECTION AND ACCESS IN COMPLIANCE WITH THE COMPETITIVE CHECKLIST**

BellSouth satisfies each of the fourteen requirements of the competitive checklist by "providing access or interconnection" pursuant to its state-approved interconnection agreements with PrimeCo, Sprint Spectrum, MereTel, and other carriers in Louisiana, as well as through the general offerings of the Statement. PrimeCo, Sprint Spectrum, and MereTel have negotiated with BellSouth for contract provisions that meet their particular requirements. These carriers also have a contractual right to opt-in to designated provisions of other BellSouth agreements that have been approved by the Louisiana PSC, or to take the terms of another agreement — such as the arbitrated agreement between BellSouth and AT&T — in their entirety. Finally, PCS providers and other CLECs may take advantage of the Statement, which, as the Louisiana PSC has confirmed, meets all checklist requirements.<sup>26</sup> Should CLECs place orders for checklist items

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<sup>26</sup>. These local competition issues are at the core of the Louisiana PSC's expertise and jurisdiction. See Iowa Utils. Bd. v. FCC, 120 F.3d 753 (8<sup>th</sup> Cir. 1997) (confirming state jurisdiction over local interconnection and resale agreements and pricing). This Commission, moreover, is required to consult with the Louisiana PSC "to verify" BellSouth's satisfaction of the checklist, further driving home that the state commission's determinations are entitled to great weight. 47 U.S.C. § 271(d)(2)(B).

There is no conflict between the statute's requirement of consultation with the state commission to verify checklist compliance and the additional requirement of consultation with the Attorney General. See 47 U.S.C. § 271(d)(2)(A). Unlike the state commissions, the Department

under these provisions, they will find BellSouth ready, willing, and able to furnish each item at the requisite level of quality.

In that regard, a clear distinction must be drawn between competitive entry by CLECs, on the one hand, and CLECs' ability to obtain local facilities and services from BellSouth, on the other. This Commission has acknowledged that CLECs might limit their local services if doing so will slow Bell company entry into long distance. See Michigan Order ¶ 111; Oklahoma Order ¶ 56. In just the same way, CLECs have doggedly sought to convert their own lack of interest in the local market (or their ineptitude in executing business plans for local entry) into a strategic weapon: They suggest that any delays in local competition must necessarily be the fault of the incumbent. Consistent with that tactic, AT&T and others will predictably imply that — but for some failing by BellSouth — they would already be up and running as local carriers in Louisiana.

That is nonsense. AT&T in particular is making no serious effort to enter the local telephone business in Louisiana; it is too caught up in seeking to persuade judges and regulators to rewrite the 1996 Act. See Wright Aff. ¶¶ 105-108. Nor is BellSouth responsible for the relatively slow pace of entry by those CLECs that are now commencing local service, or those

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of Justice has no special expertise on checklist issues and chose not to be a participant in state-level evidentiary proceedings. Accordingly, the Department of Justice's views would be entitled to less weight than the Louisiana PSC's even if one did not consider the legislative history of the Act. When that legislative history is considered, it shows that Congress intended to limit the Attorney General's consultative role to antitrust issues under the public interest test. See, e.g., 142 Cong. Rec. H1176 (daily ed. Feb. 1, 1996) (statement of Rep. Jackson-Lee) ("substantial weight" to be accorded to the views of the Attorney General is limited to her "expertise in antitrust matters"); id. at H1178 (statement of Rep. Sensenbrenner) ("FCC's reliance on the Justice Department is limited to antitrust related matters"); see also id. at H1157 (statement of Sen. Hyde) ("the Department of Justice will apply any antitrust standard it considers appropriate").

carriers' general avoidance of residential customers. As explained in detail below, all required checklist items are demonstrably available to for those CLECs who are prepared to compete.

There are a few areas in which BellSouth disagrees with the interpretations of checklist requirements suggested in the Commission's Michigan Order, particularly regarding pricing, combinations of UNEs (an issue recently resolved in BellSouth's favor by the Eighth Circuit), and certain OSS performance measurements and standards. BellSouth and other parties have properly presented these issues to the courts and the Commission;<sup>27</sup> in this application BellSouth preserves its positions for resolution by the courts if necessary.<sup>28</sup> No one who fully reviews this application, however, could genuinely question BellSouth's good-faith commitment to satisfying the local-market requirements of the checklist and the 1996 Act. BellSouth thus believes not only that the Commission should change its position on the disputed legal issues as to which it has not already

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<sup>27</sup>. In connection with its decision in Iowa Utilities Board, 120 F.3d 753, the Eighth Circuit has pending before it petitions arguing that because pricing matters are reserved to the States under section 252, and the checklist simply requires compliance with section 252's pricing rules, the checklist does not authorize the Commission to condition BOC interLATA entry upon compliance with federal pricing rules. In addition, BellSouth has petitioned the Commission to reconsider and clarify portions of the Michigan Order, including those dealing with OSS performance measurements and standards and evidentiary matters. Petition of BellSouth Corporation for Reconsideration and Clarification, Application of Ameritech Michigan Pursuant to Section 271 of the Telecommunications Act of 1996 to Provide In-Region, InterLATA Services in Michigan, CC Docket No. 97-137 (filed Sept. 18, 1997).

<sup>28</sup>. BellSouth recognizes that the Commission has no power now to grant relief on BellSouth's belief that section 271, along with other provisions of the 1996 Act that single out and impose burdens on the BOCs by name, constitutes an unconstitutional bill of attainder and also violates both separation of powers and equal protection principles. Accordingly, BellSouth preserves these arguments as well for future review in the courts.

been overruled, but also that the Commission should look beyond these narrow disagreements to the broad effort BellSouth is making to accommodate competitive.

**A. BellSouth is Providing Nondiscriminatory Access to its Operations Support Systems**

In its Michigan Order this Commission emphasized nondiscriminatory access to OSSs as a critical aspect of the checklist requirements. Michigan Order ¶¶ 128-221. After exhaustive and very expensive efforts to implement, test, and make commercially available new and improved interfaces and OSSs, see generally Stacy OSS Aff. (App. A at Tab 12), and to establish and staff new organizations, centers, and procedures for the benefit of CLECs, see Stacy Performance Aff. ¶¶ 4-11 (App. A at Tab 13), BellSouth is able to ensure CLECs the required access. BellSouth is not stopping there, however. As the affidavits cited below explain, BellSouth is continuing to enhance its systems, which already meet the Act's requirements, so that CLECs will have even better access to OSSs. Although not necessary to this application, that fact should give the Commission additional confidence in BellSouth's commitment to facilitate local market entry.

CLECs are able to perform traditional OSS functions such as pre-ordering, ordering, provisioning, maintenance and repair, and billing "in substantially the same time and manner" as BellSouth. Local Interconnection Order, 11 FCC Rcd at 15764, ¶ 518. As demonstrated in a videotape provided as part of Appendix D to this application, BellSouth has modified its OSSs to process CLEC transaction requests and has developed interfaces that allow CLECs to obtain access to resale services and unbundled elements at parity with BellSouth. With these modifications now in place, CLECs may obtain pre-ordering information, prepare and enter

orders, receive provisioning information, enter and track the receipt and status of trouble reports, and bill customers accurately, in substantially the same manner as BellSouth.

To cater to the differing needs of various CLECs, BellSouth has provided a choice of manual or electronic OSS interfaces. Electronic interfaces currently are available for every aspect of OSS access. These interfaces meet existing industry standards; as new industry standards are developed, BellSouth will implement them, too. See Stacy OSS Aff. ¶ 6. In addition, BellSouth has provided CLECs with all information (such as user guides and ordering codes) necessary to enable quick processing of CLEC requests, as well as the training they may need to use BellSouth's systems effectively. Stacy OSS Aff. ¶¶ 136-144 & Exs. WNS-48-51.

Whatever interface(s) a CLEC chooses, BellSouth will provide substantially the same type of functionality at substantially the same level of performance that BellSouth provides to itself. The Louisiana PSC has found as much. It explained that the sufficiency of BellSouth's systems was "[p]erhaps the single most hotly contested aspect of" its proceedings, eliciting supplemental briefing, over 115 data requests, and live demonstrations by BellSouth, AT&T, and MCI. Compliance Order at 4, 15. Based upon this "careful . . . analysis," the Louisiana PSC determined that BellSouth's systems "do in fact work and operate to allow potential competitors full non-discriminatory access" to BellSouth's OSSs. Id. at 15.

Nor can there be any argument that the access BellSouth provides is not viable at commercially reasonable usage levels. All of BellSouth's OSS interfaces have been subjected to extensive internal testing. See Stacy OSS Aff. ¶ 118. For example, BellSouth has conducted tests of its combined electronic interfaces to establish a minimum capacity of 10,000 total requests

per day in BellSouth's nine-state region. Id. ¶ 120. Almost 3,500 trouble reports have been processed through the maintenance and repair interface and BellSouth received more than 16,500 electronic orders for resale services in September alone. Id. ¶ 129 & Ex. WNS-46. BellSouth's systems are readily expandable to meet any reasonably foreseeable CLEC demand without discriminatory delays. Id. ¶ 122.

There will be those who say that the sufficiency of BellSouth's OSSs can only be shown by processing larger numbers of actual orders from CLECs. This Commission, however, has already rejected the argument that the availability of local facilities and services can only be shown by furnishing them to competitors at some minimum volume. Michigan Order ¶¶ 113-115. The checklist does not empower CLECs to delay long distance competition by refusing to come and get BellSouth's offerings.

Pre-ordering. To access OSSs containing pre-ordering information, CLECs can select a manual or electronic interface. The electronic interface — known as the Local Exchange Navigation System ("LENS") — is an interactive system that allows the CLEC direct, real-time access to BellSouth's pre-ordering OSSs. Stacy OSS Aff. ¶¶ 6-12. LENS is compatible with inexpensive, commercially available hardware and software and requires no additional development effort by the CLEC, yet can be customized by the CLEC to whatever extent the CLEC chooses. Id. ¶ 10. To accommodate CLECs of differing sizes and needs, LENS is accessible through direct (LAN-to-LAN) connections, dial-up access, or public Internet access. Id. LENS enables a CLEC to satisfy a customer's needs for pre-ordering information during a

single telephone call with the customer, without any assistance or intervention from BellSouth personnel. Stacy OSS Aff. ¶ 4.

For manual pre-ordering, which "smaller competing carriers [may] prefer," Michigan Order at ¶ 137 & n.333, the CLEC simply passes on pre-ordering information requests to one of BellSouth's two (redundant) Local Carrier Service Centers ("LCSCs") via facsimile, telephone, or mail. See Stacy Performance Aff. ¶¶ 4-5 (discussing LCSCs).

Using either of these interfaces, CLECs may gather and verify street address information, telephone number availability, service and feature availability, due date information, and customer service record information. Stacy OSS Aff. ¶¶ 13-41. For instance, if a CLEC initiates an address verification query through LENS, the LENS server will query the appropriate BellSouth database and verify the address on a real-time basis. Id. ¶¶ 16, 20. A CLEC can use LENS to select and reserve telephone numbers (including vanity numbers) on a real-time basis while the CLEC's customer is on the line. Id. ¶ 24. LENS also may be used to validate what features are available to particular end-user customers, either by entering a ten-digit telephone number or a street address. Id. ¶ 26.

LENS allows CLECs to obtain due date information for installations requiring a premises visit. Id. ¶¶ 32-33.<sup>29</sup> Authorized CLECs likewise may access customer service records on a real-time basis through the LENS interface. Id. ¶ 38. Not all pre-ordering functions are applicable to UNEs, but where a particular function is applicable (such as assigning a telephone number for an

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<sup>29</sup>. Business rules for other due-date intervals have been provided to CLECs. Stacy OSS Aff. ¶ 139.

unbundled port), BellSouth's pre-ordering interface can be used for UNEs as well as resold exchange services. Id. ¶ 48.

BellSouth personnel must use different systems for residential and business pre-ordering. Solely for the convenience of CLECs, however, BellSouth has made the single LENS system available for both business and residential pre-ordering. Id. ¶ 12.<sup>30</sup> LENS is, in addition, more user-friendly than some of the systems used by BellSouth's own service representatives, because it relies exclusively on graphics and English-text prompts rather than code and function keys. Id. ¶¶ 8, 12.

In an effort to make LENS even more useful to larger CLECs, BellSouth has provided to interested CLECs a LENS interface specification that allows for direct integration of data into a CLEC's systems. This enables the CLEC to use its own systems to obtain and manipulate the data provided by LENS. Stacy OSS Aff. ¶ 44. Over and above the nondiscriminatory access provided by LENS and required under the Act, moreover, BellSouth will make available machine-to-machine interfaces for access to pre-ordering OSSs that are tailored to individual CLECs' requirements. Id. ¶¶ 42-45. For instance, even though it is not required to do so to meet its duty of nondiscriminatory access under the Act, BellSouth is developing a customized machine-to-

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<sup>30</sup>. Certain complex services that require extensive design work and are ordered in relatively low volumes, such as SONET rings, may only be pre-ordered and ordered through a paper process. This is true for BellSouth and CLECs alike. Stacy OSS Aff. ¶¶ 63-73 & Ex. WNS-30. The service inquiry and any subsequent service requests are handled without distinguishing between orders generated by BellSouth and orders generated by a CLEC. Id. ¶ 64. The processes employed by BellSouth for these services thus afford CLECs and their customers the same level of timely service as BellSouth and its retail customers receive. See id. ¶¶ 63-73.

machine interface ("EC-LITE") that meets AT&T's particular specifications. BellSouth expects to deploy this interface in December 1997. Id. ¶ 42.

As described in the attached Stacy OSS Affidavit, tests and actual usage demonstrate that LENS is comparable in speed to the interfaces through which BellSouth's customer service representatives access the same systems. Id. ¶¶ 6, 9, 20, 31. BellSouth's central OSS databases thereafter treat all queries alike, whether they originate with a CLEC or a BellSouth service representative. Id. ¶¶ 16, 24, 28, 34 & Ex. WNS-37.

Ordering and Provisioning. Ordering and provisioning are the processes whereby a CLEC requests resold services, UNEs, or interconnection trunking from BellSouth and then receives information such as a confirmation that the order has been accepted. See 47 C.F.R. § 51.5. CLECs may use the Exchange Access Control and Tracking ("EXACT") system to request interconnection trunking. This is the same industry-standard interface BellSouth uses to process access service requests from interexchange carriers. Stacy OSS Aff. ¶ 56. In addition, a second interface specifically developed for CLECs, Electronic Data Interchange ("EDI"), has been available to CLECs since December 31, 1996. Currently, five CLECs have an EDI interface in actual use with BellSouth. Id. ¶ 55. EDI allows CLECs to order resold services, including four "complex" services, and unbundled loops, unbundled ports, and interim number portability. Id. ¶¶ 58, 60. BellSouth's interface meets the industry standards for EDI developed by the Ordering and Billing Forum (a subcommittee of the Association for Telecommunications Industry Solutions), allowing a CLEC to transmit service requests in standard EDI format to BellSouth. Id. ¶ 50. Using the EDI format, for instance, CLECs may specify that a customer be switched "as

is" (no features or functions are added or deleted) or "as specified" (specified features or functions are added or deleted). Id. ¶¶ 50-51.

CLECs have other alternatives as well. In addition to the nondiscriminatory access afforded by EXACT and EDI, CLECs may, at their option, submit service requests for most non-complex services through LENS. Id. ¶ 56. Or if a CLEC chooses not to use an electronic interface, it may request services or UNEs using a manual process. Stacy Performance Aff. ¶ 8.

CLECs' access to BellSouth's ordering functions is substantially the same as the access provided to BellSouth's own retail operations. Mechanized order generation is available on BellSouth's side of the EDI interface for resale services that collectively represent 90 percent of BellSouth's consumer and small business revenues. Stacy OSS Aff. ¶ 67. Mechanized service order generation for unbundled loops, ports, and interim number portability was made available to CLECs as of October 6, 1997, following testing by BellSouth. Id. While there have in the past been problems with rejection of electronic orders placed by CLECs, problems attributable to BellSouth have been corrected. Id. ¶¶ 68-72.

After the CLEC submits its order through the preferred interface, the request is screened for formatting errors and the complete and correct service request is transferred to the same service order control system used for BellSouth's own retail orders. This database automatically delivers service order records to the downstream OSSs that select and assign facilities and cross-connect wiring functions. There is no distinction between CLEC- and BellSouth-originated order records. Instead, orders are scheduled and filled on a first-come, first-served basis. Stacy OSS Aff. ¶¶ 23, 33, 34.

All of BellSouth's systems for ordering and provisioning are easily capable of meeting current demand and are scalable to meet reasonably foreseeable demand, including order "spikes," without discriminatory delays. Id. ¶¶ 119-134; Stacy Performance Aff. ¶¶ 4-11 (discussing BellSouth service centers).

Service Maintenance and Repair. CLECs can use BellSouth's interactive Trouble Analysis Facilitation Interface ("TAFI") or a manual interface to initiate maintenance or repair inquiries for services associated with a telephone number. Stacy OSS Aff. ¶ 86. If a CLEC elects to use the manual interface, BellSouth will handle the CLEC's phoned-in trouble reports in the same way it handles reports from its own retail customers — by entering the report into TAFI. Id. ¶¶ 90, 93. But if the CLEC chooses direct access to TAFI, its personnel are themselves able to input trouble reports, obtain commitment times, and check on the status of previously entered reports in the same way BellSouth retail service representatives, who use TAFI themselves, would accomplish the same task. Id. ¶ 93. Unlike BellSouth retail service representatives, however, CLECs have the advantage of being able to access TAFI for both business and residential customers through the same interface. Id. ¶ 90. CLECs have access to information on the resale services and UNEs they have purchased from BellSouth, but not to information about the customers of other CLECs. Id. ¶¶ 90-91.

TAFI automatically performs diagnostic tests and, by interacting with other internal BellSouth systems, is often able to correct a trouble report while the customer is still on the line. For example, if a customer were to report a problem with call waiting, TAFI would first verify that the feature is listed on the customer service record. Then, depending on the nature of the

problem, TAFI may be able to restore the service to the line. Id. ¶ 87. Where further action is required BellSouth will advise the CLEC of the steps being taken and the time they will take, so that the CLEC can inform its own customer. Id. ¶ 86. Thereafter, the CLEC can check the status of a repair order by entering a subsequent report into TAFI or, if it placed the initial order manually, by contacting the BellSouth Residence Repair Center or Business Repair Center with which it placed the initial report. See id.

As of September 30, 1997, eighteen CLECs had entered trouble reports via TAFI. A total of 3,463 trouble reports were generated by CLECs on TAFI from June through September 1997. Id. ¶ 129. BellSouth is able to add additional capacity almost immediately. Stacy OSS Aff. ¶ 128. Usage data and testing confirm that the access provided to CLECs through TAFI is nondiscriminatory. See Stacy OSS Aff. ¶¶ 120-135.

For designed services (which are associated with a circuit number), CLECs have the ability to pass a trouble ticket electronically into the Work Force Administration database using the Exchange Carrier - Common Presentation Manager interface. Id. ¶¶ 84, 95. For trouble reporting regarding designed services (such as resold complex private line services), interconnection trunking, or designed UNEs, CLECs today have access to the T1M1 electronic bonding interface used by interexchange carriers for access services. Id. ¶ 95. In addition, BellSouth will make available to CLECs in November 1997 yet another option beyond the nondiscriminatory access required under the Act: namely, the Electronic Communications Trouble Administration Gateway, a system based on the T1M1 standard for repair and maintenance of local service that can be used for non-designed and designed services and UNE trouble reports.

Id. ¶ 97. BellSouth also will develop customized systems such as one now being developed for AT&T based on the T1M1 standard. Id.

Billing. BellSouth bills CLECs using its two billing systems — Carrier Access Billing Systems (“CABS”) and Customer Records Information System (“CRIS”). CABS is a billing system for carriers that measures billable access usage and conforms to industry standards established by the Ordering and Billing Forum. CRIS was developed for billing end users and is used to bill CLECs for resold services. It measures billable call events (e.g., the use of a vertical service that is charged on a per-use basis) and accumulates call record details. Hollett Aff. ¶ 5 (App. A at Tab 6).

A CLEC receives separate bills from the CRIS and CABS systems, just as a BellSouth end user who subscribes to a service that is recorded in both systems would receive two bills. Stacy OSS Aff. ¶ 101. A variety of billing media formats are available to CLECs for both CRIS and CABS bills; BellSouth also offers a capability for sorting the information provided on CRIS bills. Hollett Aff. ¶ 6. To accommodate the preferences of CLECs, BellSouth has even negotiated to provide CRIS data in CABS format and is testing this capability with AT&T and MCI. Id. ¶ 7; see also Stacy OSS Aff. ¶ 102.

BellSouth additionally offers CLECs access, either electronically or using a magnetic tape, to usage-sensitive data in a manner that facilitates end-user billing. Hollett Aff. ¶ 11. Fourteen CLECs in BellSouth’s region now use this daily data transfer and another ten are receiving test files. Id. In all, approximately 1.5 million such messages are transmitted monthly throughout BellSouth’s region. Id. Daily usage information is available for resold lines, interim number

portability accounts, and some unbundled network elements such as unbundled ports. Id. This system provides CLECs access to the data they need in substantially the same time and manner as BST, as the Louisiana PSC confirmed through its own investigation. See Compliance Order at 15. Testing and actual usage prove that CLECs are able to receive billing information on a nondiscriminatory basis. See Hollett Aff. ¶¶ 9-18 (discussing measures to ensure adequacy of billing systems for CLECs' needs); Stacy OSS Aff. Ex. WNS-53. BellSouth has adopted a variety of safeguards to prevent double-billing and other billing errors and has addressed the few issues of this sort that have arisen. Hollett Aff. ¶¶ 9-17.

Performance Measurements. BellSouth has collected for this application and will make available to CLECs extensive data on the real-world performance of its systems. Data are provided to assess system availability, response time, and usage billing timeliness. See Stacy Performance Aff. ¶¶ 32-35. BellSouth also has provided data on the percentage of orders placed through BellSouth's electronic interfaces that "flow through" the OSSs without manual intervention. Id. ¶ 36.<sup>31</sup>

**B. All Fourteen Checklist Items Are Legally and Practicably Available**

BellSouth's OSSs enable CLECs to obtain the local network facilities and services BellSouth provides in accordance with other checklist requirements. See 47 U.S.C. § 271(c)(2). The Commission has explained that "to be 'providing' a checklist item, a BOC must have a

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<sup>31</sup>. As BellSouth explained in its petition for reconsideration of the Michigan Order, however, the Commission may not enforce substantive performance standards for other checklist items under the rubric of access to OSSs. What happens after CLECs' requests have made it through BellSouth's support systems is governed not by the Act's OSS provisions, but rather by the checklist requirements (if any) that address the underlying item ordered.

concrete and specific legal obligation to furnish the item upon request” and “must demonstrate that it is presently ready to furnish each checklist item in the quantities that competitors may reasonably demand and at an acceptable level of quality.” Michigan Order ¶ 110.

BellSouth satisfies both elements of this test with respect to all checklist items. BellSouth is legally obligated to provide all fourteen checklist items to PrimeCo, Sprint Spectrum, MereTel, or any other CLEC that asks. First, the specific provisions of the PrimeCo, Sprint Spectrum and MereTel agreements directly require BellSouth to make a number of checklist items available. Second, the agreements require BellSouth to make available to PrimeCo, Sprint Spectrum, and MereTel portions of any of BellSouth’s other state approved agreements on matters such as: interconnection, collocation, unbundled access to any network element, access to poles, ducts, conduits, and rights-of-way, access to 911/E911 emergency network, and access to telephone numbers. PrimeCo Agreement § XVI.B, E.2; Sprint Spectrum Agreement § XVII.B, E.2; MereTel Agreement § XVII.B, E.2. Third, PrimeCo, Sprint Spectrum and MereTel may choose to opt into an entire agreement negotiated by another CLEC. PrimeCo Agreement § XVI.B, E.1; Sprint Spectrum Agreement § XVII.B, E.1; MereTel Agreement § XVII.B, E.1. Thus, for example, BellSouth is legally obligated to provide these carriers whatever it offers to AT&T, pursuant to AT&T’s arbitrated interconnection agreement. Fourth, any CLEC that is certified by the Louisiana PSC to provide local telecommunications services in the State has access to the terms of BellSouth’s approved Statement. Statement at 1. Moreover, pursuant to MFN clauses in their own negotiated agreements, Sprint Spectrum, PrimeCo, and MereTel have access to the terms of BellSouth’s approved Statement, either in their entirety or on a section-by-section basis

if they fall within one of the categories noted above. See Sprint Spectrum Agreement § XVII.C, E.1-2 (making available terms of any “order,” including the terms imposed by the Louisiana PSC in its Compliance Order); see also PrimeCo Agreement § XVI.C, E.1-2 (same); MereTel Agreement § XVII.C, E.1-2 (same).

BellSouth’s legal obligations to provide all fourteen checklist items are not mere paper promises. Rather, commercial usage throughout BellSouth’s region, as well as thorough testing in Louisiana and elsewhere, confirm that all checklist items are available today on a nondiscriminatory basis that enables CLECs to provide the same quality telecommunications services as BellSouth and in sufficient quantities to meet reasonably foreseeable CLEC demand.

(1) Interconnection. Subsection 271(c)(2)(B)(i) requires BellSouth to hold out interconnection with its network facilities in accordance with the requirements of sections 251(c)(2) and 252(d)(1) of the Communications Act. These two provisions in turn require BellSouth to provide interconnection: (A) “for the transmission and routing of telephone exchange service and exchange access;” (B) “at any technically feasible point;” (C) “that is at least equal in quality” to what BellSouth provides itself; (D) “on rates, terms and conditions that are just, reasonable, and nondiscriminatory;” and (E) based upon cost plus a “reasonable profit.”

BellSouth’s agreements with PrimeCo, Sprint Spectrum, and MereTel (among other carriers) satisfy sections 251(c)(2) and 252(d)(1) and applicable Commission regulations by providing local interconnection of equal quality, at any technically feasible point, at cost-based rates. See Varner Aff. ¶¶ 50, 56-63; Milner Aff. ¶¶ 12-15 (App. A at Tab 9). In addition to setting forth specific interconnection terms, PrimeCo Agreement §§ IV, VI; Sprint Spectrum

Agreement §§ IV, VI; MereTel Agreement §§ IV, VI, the agreements enable PrimeCo, Sprint Spectrum, and MereTel to opt into the interconnection provisions of other agreements and the Statement. PrimeCo Agreement §§ XVI.E.2.a; Sprint Spectrum Agreement § XVII.E.2.a; MereTel Agreement § XVII.E.2.a. For example, the terms of the AT&T Agreement would allow PrimeCo, Sprint Spectrum, and MereTel to “interconnect” with BellSouth “at any point . . . that is technically feasible.” AT&T Agreement § 30.2 & Attach. 2, § 16. The Statement allows interconnection at the line-side or trunk-side of the local switch, as well as at trunk interconnection points for a tandem switch, central office cross-connect points, and out-of-band signal transfer points. See Statement § I.A.1. Pursuant to a “Bona Fide Request Process” that was developed jointly with AT&T and is available to all CLECs, BellSouth also will provide local interconnection at any other technically feasible point, including meet-point arrangements. AT&T Agreement Attach. 14; Statement § I.A.2 & Attach. B; Varner ¶¶ 16, 50; Milner Aff. ¶ 12; Woroch Aff. ¶¶ 28-29 (Bona Fide Request Process allows new and unusual offerings and “gives the CLEC the flexibility to respond to market uncertainties”). Interconnection is available through several alternative methods, including virtual and physical collocation and interconnection via purchase of facilities by either company from the other. PrimeCo Agreement § VI.A.; Sprint Spectrum Agreement § VI.A; MereTel Agreement § VI.A; see also AT&T Agreement § 32.1 & Attach. 3 at § 2; Statement § I.C & II.B.6; Varner Aff. ¶¶ 44-45, 47.

The Louisiana PSC has confirmed that interconnection is available in compliance with the Act. Compliance Order at 6-7. As of September 30, 1997, BellSouth had installed more than 30,500 interconnection trunks in its region, including 936 trunks in Louisiana. Milner Aff. ¶ 13.

There are, in addition, 21 physical collocation arrangements in place in BellSouth's region and 88 in progress, including one in place and two in progress in Louisiana. See Milner Aff. ¶ 23 (discussing and providing list of physical collocations). Four virtual collocation arrangements are in place in Louisiana and another four are in progress, and another 145 have been established elsewhere in BellSouth's region. Milner Aff. ¶ 29 & Ex. WKM-2 (list of BellSouth's virtual collocations). Because BellSouth uses the same processes with respect to checklist items in all of its nine states, this experience within and outside Louisiana confirms the practical availability of interconnection in Louisiana. Milner Aff. ¶ 5.

To demonstrate that the interconnection BellSouth provides competitors is equal in quality to that BellSouth provides itself, BellSouth has furnished the following materials with this application: detailed technical service descriptions outlining its local interconnection trunking arrangements and switched local channel interconnection, Milner Aff. ¶¶ 13-14 & Ex. WKM-9; BellSouth's Collocation Handbook, which establishes standardized procedures for collocation, Milner Aff. ¶ 17; Varner Ex. AJV-4; and blockage rates for trunks that route BellSouth traffic and for trunks that route competitors' traffic, see Stacy Performance Aff. ¶¶ 47-49. Each of these three bases for comparison confirms that the interconnection BellSouth provides competitors equals what BellSouth provides to itself. Milner Aff. ¶ 12; Stacy Performance Aff. ¶¶ 63-65 & Exs. WNS-11-14. In every instance in which a trunk has been blocked, BellSouth has cooperated with competitors to resolve the problem in a nondiscriminatory fashion. See Milner Aff. ¶ 16 (describing examples).